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No clear legal limits on 'contra' aid

Does administration role in raising private funds defy spirit of law?

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The Reagan administration is walking a fine legal line in helping "contra" rebels wage war against Nicaragua's Sandinista government.

Even if Reagan officials are not breaking any laws, they have gone further than Congress wants, critics say. But it isn't likely Congress will do anything about it, they concede.

"The political will just isn't there to take Reagan on," says one source familiar with congressional attitudes on the issue.

Since Congress cut off funding to the contras last year, the guerrilla war has been kept alive by the efforts of a small number of closely linked US private groups on the extreme right.

According to recent news reports, the Reagan administration has played a major role during this period by helping to raise funds from the private sector and by providing direct military advice to contra commanders.

Reports say the key man for the effort is Marine Lt. Col. Oliver L. North, an intelligence expert and senior aide to national-security adviser Robert C. McFarlane. Administration sources acknowledge that Colonel North has met regularly with rebel leaders, both here and in Central America, and has appeared at frequent privately sponsored fund-raising events for contras.

[In an interview in yesterday's Washington Post, Adolfo Calero, head of the largest US-backed contra group, confirmed that he had met on several occasions with North and other members of the National Security Council (NSC).]

Last year between \$15 million and \$25 million in cash and "in kind" private contributions were raised to support the contras. Much of the money has reportedly been used to purchase weapons, including some DC-3 transport aircraft that extend the contras' capacity to carry the guerrilla war deep inside Nicaragua.

Responding to news reports, President Reagan said aid and advice for contra groups were "not violating any laws."

But opponents of Reagan's Nicaragua policy say involvement of administration officials violates the spirit, and maybe even the letter, of at least two laws. It also raises questions about the distribution of foreign policymaking responsibilities between Congress and the executive branch.

The 1984 "Boland amendment" to the Defense Department appropriations bill prohibits any US agency involved in intelligence activities from providing direct or indirect support for military operations inside Nicaragua. The amendment, which remains in effect until October, was enacted specifically to prevent the kind of clandestine activities reportedly conducted by NSC officials,

critics say.

And provisions of US neutrality laws prohibit American citizens from helping to fund or plan military operations directed against any government with which the US is at peace. By providing military advice and abetting private fund-raising efforts, the administration has directly violated the 1794 statutes, they say.

It's not likely either law will provide much help in enforcing limits on US involvement in Nicaragua. Administration supporters note that, unlike the Central Intelligence Agency, the NSC is not actually an intelligence agency and is not subject to the Boland amendment. They also point to a recent federal court decision prohibiting US citizens from bringing suit under the neutrality laws. In any case, they argue, these laws were never meant to apply to US officials.

Legal arguments aside, critics say there's still the matter of ignoring the intent of Congress. Last month, the House and Senate finally agreed to resume funding to the contras, but only after barring US aid for military purposes. Critics say by helping to raise private funds — which contra leaders say are used to buy weapons — the Reagan administration has disregarded the intent of Congress.

Congressional reaction will be difficult to gauge until lawmakers return from recess after Labor Day. If enough members see the issue as a direct challenge to their role in foreign policymaking, Congress could seek to curtail the activities of the NSC, and even of private groups, by strengthening the Boland amendment or by enacting new legislation.

But given the more hawkish foreign policy mood on Capitol Hill, there's little chance Congress will hold the administration's feet to the fire on the private-aid issue, congressional sources say. "The political momentum is with the President," says Rep. Peter H. Kostmayer (D) of Pennsylvania, a member of the House Foreign Affairs Committee.

With the influx of new US and private funding, Congress and the administration will be watching closely to gauge its effect on the contra war.

The resumption of official US aid has been symbolically important, raising morale of contra forces to the highest level in years, experts say.

More important, the money will ensure the flow of weapons, which contra spokesmen say may make it possible to arm and field thousands of additional soldiers during the coming months.

Last month, guerrilla forces launched a major new offensive that took contra forces deep inside Nicaragua, posing the most serious military threat yet to the five-year rule of the Sandinista regime.